

**ADOPTED MINUTES
YORK COUNTY PLANNING COMMISSION**

Regular Meeting
York Hall, 301 Main Street
May 8, 2002

MEMBERS

Spencer W. Semmes, Chair
Andrew A. Simasek, Vice Chair
Robert E. Beil, Jr.
Robert D. Heavner
Michael H. Hendricks
Alfred E. Ptasznik, Jr.
Ann F. White

CALL TO ORDER

Chair Spencer Semmes called the ~~special~~-regular meeting to order at 7:00 p.m. The roll was called and all members were present except Messrs. Heavner and Simasek. Staff members present were J. Mark Carter and Timothy C. Cross.

REMARKS

Mr. Semmes explained the legal mandate of the Planning Commission, its composition of citizen volunteers, and its mission as an advisory body to the Board of Supervisors for land use issues.

APPROVAL OF MINUTES

Upon motion of Ms. White, the minutes of the regular meeting of March 13, 2001 were adopted unanimously by roll call vote. Mr. Ptasznik moved to adopt minutes of the special meeting of April 10, 2002, and they also were adopted unanimously by roll call vote.

CITIZEN COMMENTS

There were no citizen comments.

PUBLIC HEARING

Application No. YVA-13-02, Debbie and Rogers Hamilton: Request for authorization, pursuant to Section 24.1-327(b)(4) of the York County Zoning Ordinance, to establish a Bed and Breakfast establishment in an existing single-family detached home located at 114 Church Street in historic Yorktown.

Mr. Tim Cross, following a brief video presentation, summarized the staff report on this application in which staff recommended approval. Ms. White inquired about available parking space for bed and breakfast guests, and Mr. Cross noted that the existing driveway accommodates at least four automobiles and there is a two-car garage at the residence, as well. He added that off-street parking would be allowed but should not be necessary.

Chair Semmes opened the public hearing.

Mr. Rogers Hamilton, 114 Church Street, spoke in behalf of his application. He stated that he and Mrs. Hamilton would use the existing bedroom over the garage, originally built for his mother but never used, if all four bedrooms should be occupied by guests. Mr. Hamilton expected reservations to be made via their web site and telephone.

Mr. Eugene Marlin, 227 Church Street, supported approval. Mr. Marlin operate Marl Inn for five years until he sold it last year, he stated, and during the time he operated it there were a number of weekend guests. In endorsing approval of the application, Mr. Marlin cited page 71 of the Yorktown Master Plan, in which it recognized the appeal of bed and breakfast establishments for this area.

There were no others wishing to speak, and the Chair closed the public hearing.

Mr. Hendricks acknowledged that this type of business was recommended in the Comprehensive Plan and had been endorsed at Focus on Yorktown and other meetings as being compatible with the Yorktown historic area.

Ms. White expressed appreciation to the applicants for submitting their application.

PC02-13

On motion of Mr. Ptaszniak, which carried 5:0 (Messrs. Heavner and Simasek absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO
AUTHORIZE THE ESTABLISHMENT OF A BED AND BREAKFAST INN AT 114
CHURCH STREET

WHEREAS, Debbie and Rogers Hamilton have submitted Application No. YVA-13-02, pursuant to Section 24.1-327(b)(4) of the York County Zoning Ordinance, to establish a bed and breakfast inn within an existing single-family detached dwelling on a 0.25-acre parcel of land located at 114 Church Street and further identified as Assessor's Parcel No. 18-1-29A; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has given careful consideration to the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of May, 2002, that Application No. YVA-13-02 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval, pursuant to Section 24.1-327(b)(4) of the York County Zoning Ordinance, to establish a bed and breakfast inn within an existing single-family detached dwelling on a 0.25-acre parcel of land located at 114 Church Street and further identified as Assessor's Parcel No. 18-1-29A, subject to the following conditions:

1. This approval shall authorize the establishment of a bed and breakfast inn within a single-family detached dwelling on property located at 114 Church Street and further identified as Assessor's Parcel No. 18-1-29A. Rental of rooms shall be limited to overnight guests as opposed to long-term boarders. The owner's living quarters in the principal dwelling shall be the only dwelling unit permitted on the property.
2. The owners/operators of the bed and breakfast establishment shall reside on the premises and maintain the property primarily as a single-family residence with the bed and breakfast operation constituting an accessory use.
3. A site plan and building plans, prepared in accordance with Article V of the York County Zoning Ordinance and the Uniform Statewide Building Code shall be submitted to and approved by the York County Department of Environmental and Development Services prior to the establishment of the bed and breakfast operation. The plan shall describe the interior of the building in sufficient detail to determine compliance with parking, health, and building code requirements. In addition, all existing and proposed off-street parking areas shall be identified and installed according to specifications outlined in Article VI of the York County Zoning Ordinance. No off-site parking provisions shall be permitted.
4. One (1) freestanding, non-illuminated sign, not to exceed four (4) square feet in area, shall be permitted to identify the use.
5. The maximum occupancy of the bed and breakfast, not including the owners/operators, shall be four (4) adult guests if operated as a two-bedroom facility, six (6) adult guests if operated as a three-bedroom facility, or eight (8) adult guests if operated as a four-bedroom facility.
6. Retail sales on the premises shall not be permitted.
7. The bed and breakfast inn shall be operated in conformance with the performance standards set forth in Section 24.1-409 of the Zoning Ordinance.
8. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

* * *

Application No. UP-595-02, K. Dale Moore: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance to authorize a 125-foot freestanding monopole communications tower within a flagpole structure. The subject parcel is located at 3010 Big Bethel Road.

Mr. Tim Cross presented a brief video and summarized the memorandum to the Commission in which the staff recommended approval of this application.

Mr. Beil inquired about the staff recommendation to paint the proposed flag tower white, when typically the recommendation for communication towers to remain unpainted. Mr. Cross said that, although a galvanized gray finish is typically required, staff felt that a white finish would make the tower look more like a flagpole.

Mr. Ptasznik asked if the tower would both receive and transmit, and on what frequencies. Mr. Cross replied that it would have to meet all technical and legal requirements.

Mr. Ptasznik indicated he would prefer that the flag be raised and lowered daily and that an automated device be required for raising and lowering.

The Chair opened the public hearing.

Mr. Dale Moore, 229 Redoubt Road, addressed Mr. Beil's question and said he had not decided if white or silver would be the most suitable, and he assured the Commission that he would not do anything that would detract from what will be a significant investment. He said he will raise and lower the flag daily if that is the Commission's desire.

Ms. Ann McRay (no address available) expressed concern over possible radiation escaping from the communications tower. Mr. Cross responded that the tower would have to meet all federal regulations for ground level radiation and that a certificate attesting to its conformance would be filed with the County. Mr. Ptasznik added that if a violation occurred, the permit would be rescinded.

The public hearing was closed by order of the Chair.

Discussion followed about whether to require raising and lowering the flag. Mr. Barnett advised that flag etiquette exists but it is not law, and he doubted the County could enforce any demand that the owner install an automated device to raise and lower the flag.

Mr. Ptasznik expressed his partiality to tower structures that are designed to hide the antennae inside.

PC02-14

On motion of Mr. Hendricks, which carried 5:0 (Messrs. Heavner and Simasek absent), the following resolution was adopted:

**A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE A 125-FOOT SELF-SUPPORTING MONOPOLE
COMMUNICATIONS FLAGPOLE TOWER AT 3010 BIG BETHEL ROAD**

WHEREAS, K. Dale Moore has submitted Application No. UP-595-02, which requests a special use permit pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance to authorize construction of a 125-foot freestanding monopole communications tower with associated equipment on the parcel located at 3010 Big Bethel Road (Route 600) and further identified as Assessor's Parcel No. 24 (60)-28; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of May, 2002, that Application No. UP-595-02 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize construction of a 125-foot freestanding monopole communications tower/flagpole on a 2.34-acre parcel of land located at 3010 Big Bethel Road (Route 600) and further identified as Assessor's Parcel No. 24 (60)-28, subject to the following conditions:

1. This use permit shall authorize the construction of a freestanding monopole communications tower/flagpole on a 2.34-acre parcel of land located at 3010 Big Bethel Road (Route 600) and further identified as Assessor's Parcel No. 24 (60)-28.
2. The height of the flagpole/tower shall not exceed 125 feet.
3. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to commencement of land clearing or any construction activity on the subject property. Except as modified herein, said plan shall be substantially in conformance with the sketch plan submitted by the applicant a copy of which is located in the application files for this request maintained by the York County Department of Environmental and Development Services. As part of the site plan submittal, the applicant shall prepare a frequency intermodulation study to determine the impact on current communication transmissions for the York County Departments of Fire and Life Safety and General Services, Sheriff's Office, School Division, and the Intrac Sewer Telemetry System. Should any equipment associated with this facility at any time during the operation of the tower be found by the County to cause interference with County communications, the applicant shall be responsible for the elimination of said interference within twenty-four (24) hours of receipt of notice from the County.
4. Construction and operation of the tower shall be in conformance with the performance standards set forth in Sections 24.1-493 and 24.1-494 of the Zoning Ordinance.
5. No flag other than a single Flag of the United States shall be flown from the tower/flagpole. Said flag shall be flown continuously during daylight hours. Corporate logo emblem flags shall be expressly prohibited.
6. Illumination of the flag shall not be permitted.
7. The applicant shall submit to the County a statement from a registered engineer certifying that NIER (nonionizing electromagnetic radiation) emitted from the tower does not result in a ground level exposure at any point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
8. A report from a registered structural or civil engineer shall be submitted indicating tower height and design, structure installation, and total anticipated capacity of the structure (including number and types of users that the structure can accommodate). These data shall satisfactorily demonstrate that the proposed tower conforms to all structural requirements of the Uniform Statewide Building Code and shall set out whether the tower will meet the structural requirement of EIA-222E, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

9. Advertising and signage on the tower/flagpole shall be expressly prohibited, except for warning signs associated with the operation of the tower or its equipment.
10. Prior to site plan approval, the applicant shall submit written statements from the Federal Aviation Administration, Federal Communications Commission, and any other review authority with jurisdiction over the tower, stating that the proposed tower complies with regulations administered by that agency or that the tower is exempt from those regulations.
11. All ground-mounted equipment associated with the tower/flagpole shall be located inside or, if located outside, shall be screened from view utilizing evergreen planting material deemed acceptable to the County. Any building addition necessary to house the equipment shall be depicted on the above-referenced site plan and shall match the façade and building materials of the existing buildings on the site.
12. If at any time use of the communications tower ceases, the owner of the subject property on which the tower is located shall dismantle and remove it within six (6) months after ceasing to use it, unless:
 - (2) A binding lease agreement or letter of intent with another wireless communications provider has been executed in which case an additional six (6) months shall be granted. If a letter of intent is provided, the execution date for a binding lease agreement shall not extend more than (12) months beyond the time the use of the tower ceases, or
 - (3) The County requests, in writing, that the tower be reserved for County use.
13. Accessory facilities shall not include offices, vehicle storage, or outdoor storage unless permitted by the district regulations.
14. Evidence shall be provided within ninety (90) days upon receipt of a building permit that the Virginia State Corporation Commission has been notified that a communication facility has been constructed or the use permit shall be considered null and void.
15. The equipment building and associated equipment shall be completely enclosed by a security fence to the satisfaction of the County.
16. The communication tower shall be white in color. Should Federal Aviation Administration requirements dictate special markings, tower lighting shall be used in lieu of multi-color painting. If painting is required, a tower maintenance plan shall be submitted and approved by the County.
17. No microwave dishes, conical shaped antennae, or other dish shall be permitted on the tower. No antenna arrays of any kind shall be located on or visible from the outside of the tower.
18. The communications tower shall be structurally designed to accommodate no fewer than two (2) wireless users capable of supporting either PCS or cellular antenna arrays. If space is available, the County shall have the right of first refusal for leasing a space on the tower to place an antenna in support of operations consistent with the County's Department of Fire and Life Safety.
19. Significant modifications to a previously approved communications tower as determined by the Zoning Administrator shall require that a new use permit application be submitted for review in accordance with the provisions of this section. Modifications can be administratively approved if the Zoning Administrator determines the modification to be minor.

Application No. UP-597-02, John E. Wray Trust: Request for a Special Use Permit, pursuant to Section 24.1-306 (category 2, number 10) of the York County Zoning Ordinance, to authorize a forestry operation to be conducted on approximately 30.1 acres located on the east side of Mooretown Road (Route 603) approximately 3,300 feet south of its intersection with Airport Road (Route 645).

Mr. Tim Cross presented the staff report contained in the memorandum to the Commission, accompanied by a brief video. He noted that a possible archaeological site has been identified on the property in question, and the applicant can choose not to disturb the site or to undertake a Phase I archaeological study.

Mr. Semmes asked if the site is to be cleared to the ground or if immature trees would be spared, and Mr. Cross said the professional forester representing the applicant could address that.

Responding to a question about access to the site, Mr. Cross said there is an existing gravel road that will be used for the timbering operation.

The Chair opened the public hearing.

Mr. Charles Carlisle, Area Manager, Timber Marketing and Management, Chester, Virginia, represented Messrs. John and Jeffrey Wray, co-owners of the property. Mr. Carlisle explained that the owners were willing to preserve the historical site by granting buffers up to 25 feet around it. The rest of the area will be clear cut and grass eventually will overtake the ground around the stumps, he said. All cutting will be done according to guidelines established by the Virginia Department of Forestry, Mr. Carlisle added.

Mr. Raphael C. Connor, 107 Thomas Nelson Lane, city of Williamsburg, expressed his concern at the level of development taking place in the area in question, naming the proposed hospital, WalMart, and Lowe's, all of which he felt undermine the watershed, the animal habitat, and environmental aesthetics. He requested denial.

Ms. Mary Grogan, 107 Thomas Nelson Lane, city of Williamsburg, did not believe any benefit would result from the proposed clear-cutting. She said there are more environmentally and socially responsible ways to accomplish the same thing, and, further, it would create a negative backlash for the tourism industry. She recommended denial.

Hearing no others, Chair Semmes closed the public hearing.

Mr. Hendricks acknowledged that the committee that had reviewed on the Comprehensive Plan had similar concerns to those expressed by Mr. Connor and Ms. Grogan, but to maintain balance between property rights and economic needs, some development is needed. He pointed out that as long as the property is zoned for Limited Business, a property owner must be able to prepare and market it for limited business uses. The Comprehensive Plan designates Mooretown Road for commercial development, he added.

PC02-16

On motion of Ms. White, which carried 5:0, the following resolution was adopted:

**A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO
AUTHORIZE A FORESTRY OPERATION ON MOORETOWN ROAD (ROUTE 603)**

WHEREAS, the John E. Wray III Trust has submitted Application No. UP-597-02 to request a Special Use Permit, pursuant to Section 24.1-306 (category 2, number 10) of the Zoning Ordinance, to authorize a forestry operation to be conducted on approximately 30.1 acres located on the east side of Mooretown Road (Route 603) approximately 3,300 feet south of its intersection with Airport Road (Route 645) and further identified as Assessor's Parcel No. 5-44, 5-45, and 5-46; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application; and

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of May, 2002, that Application No. UP-597-02 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a forestry operation to be conducted on approximately 30.1 acres located on the east side of Mooretown Road (Route 603) approximately 3,300 feet south of its intersection with Airport Road (Route 645) and further identified as Assessor's Parcel No. 5-44, 5-45, and 5-46 subject to the following conditions:

1. This special use permit shall authorize a forestry operation to be conducted on approximately 30.1 acres located on the east side of Mooretown Road (Route 603) approximately 3,300 feet south of its intersection with Airport Road (Route 645) and further identified as Assessor's Parcel No. 5-44, 5-45, and 5-46.
2. All activities shall comply with Sections 24.1-419, Standards for Forestry Operations, and 24.1-376, Watershed Management and Protection Area Overlay District, of the York County Zoning Ordinance.
3. All harvest activities shall be in accordance with the forest management plan titled "Forest Management Plan for Wray Brothers, Inc. York County, Virginia," submitted by Charles Rady Harmon, Consulting Forester, Timber Marketing & Management, Inc., and dated February 1, 2001, except as modified herein. A revised forest management plan incorporating the conditions of this use permit shall be submitted to the Zoning Administrator and the Virginia Department of Forestry for approval prior to the commencement of the forestry operation.
4. An impact study prepared in accordance with the provisions of Section 24.1- 376(f) of the York County Zoning Ordinance shall be submitted to and approved by the Zoning Administrator prior to the commencement of any harvesting activity on the property.

5. An Erosion and Sediment Control Plan prepared in accordance with the provisions of Chapter 10 of the York County Code, Erosion and Sediment Control, shall be submitted to and approved by the County prior to the commencement of any harvesting activity on the property.
6. All forestry activities on the site shall be conducted in accordance with the guidelines set forth in the Virginia Department of Forestry's Forestry Best Management Practices for Water Quality in Virginia Technical Guide (3rd Edition).
7. All areas of bare soil resulting from the harvest shall be stabilized through revegetation in accordance with the guidelines set forth in the Virginia Department of Forestry's Forestry Best Management Practices for Water Quality in Virginia Technical Guide (3rd Edition). This revegetation shall immediately follow the conclusion of harvest activity on the property.
8. Archaeological Site No. 44YO389 as identified by the study entitled Resource Protection Planning Revisited: James City County, York County, and City of Williamsburg, prepared by the Colonial Williamsburg Foundation's Department of Archaeological Research, shall be left in an undisturbed state. No timber harvesting shall be permitted in the area of this site unless and until a Phase I archaeological study has been completed in accordance with the provisions set forth in Section 24.1-374(d) and submitted to the Zoning Administrator for review.
9. All buffers required herein shall be clearly painted rather than marked with the more common "flagging" technique.
10. All harvested timber, logs, tree branches, limbs, dead and damaged trees, and associated debris shall be removed from the site upon completion of the timber harvest
11. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

COMMISSION REPORTS AND REQUESTS

Chair Semmes welcomed visitors Joe Feest, City of Hampton Planning Department, and Commissioner Timothy Smith, City of Hampton Planning Commission.

NEW BUSINESS

Chair Semmes introduced proposed Resolution PC02-17, commending and honoring Robert Beil upon the conclusion of his service to the citizens as a member of the Planning Commission.

PC02-17

On motion of Mr. Hendricks, which carried 5:0 (Messrs. Heavner and Simasek absent), the following resolution was adopted:

WHEREAS, the Commission tackled such diverse and complex issues as communications towers, open burning, and marinas with restaurants, as well as undertaking a comprehensive revision of the Zoning Ordinance during Mr. Beil's tenure; and

WHEREAS, in his service to the Commission, Mr. Beil has consistently demonstrated a keen understanding of and sensitivity to the needs of both residents and businesses in the County and the appropriate balance between the two; and

WHEREAS, Mr. Beil's devotion to public service has had a significant positive impact on the lives of York County's citizens; and

WHEREAS, Mr. Beil's second term on the Commission will expire on June 30, 2002, having served the maximum two full terms;

NOW, THEREFORE, BE IT RESOLVED this the 8th day of May, 2002, by the York County Planning Commission that it does hereby thank and commend Robert E. Beil, Jr. for his years of service to York County and that it expresses its best wishes to Mr. Beil in all of his future endeavors.

STAFF REPORTS

Mr. Carter reported on recent actions of the Board of Supervisors.

Mr. Carter introduced and welcomed Ms. Amy Parker, who will join the Planning Division as Senior Planner on May 20th.

COMMITTEE REPORTS

Ms. White said that the Yorktown Design Guidelines Review Committee might have draft guidelines to present to the Commission in July. Mr. Carter recommended a Planning Commission work session between the Committee presentation to the Commission and the formal public hearing in order to allow citizen review.

FUTURE BUSINESS

Mr. Carter noted the items slated for the Commission's agenda for June public hearings.

ADJOURNMENT

Adjournment was called at 8:13 PM.

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SUBMITTED: _____/s/_____
Phyllis P. Liscum, Secretary

APPROVED
AS AMENDED: _____/s/_____
Spencer W. Semmes, Chair

DATE: June 12, 2002